

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 669 of 1981

Date of decision: 21-01-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MUSAMIYA IMAM HAIDERBUX RAZVI

Versus

STATE OF GUJARAT  
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Appearance:

MR MI PATEL for Petitioner

Mr. Samir Dave for Respondent No. 1, 2  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/01/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

Challenge is made by the petitioner to the order of the Deputy Collector, dated 29th September, 1979 under which compensation case No.4/71 was rejected, which decision has also been confirmed in appeal by respondent No.2.

2. The contention of the counsel for the petitioner is that the ground on which the application for compensation has been rejected is no more tenable in view of the decision of this court in special civil application No.165/80 decided on 26th June,1990. The counsel for the respondents does not dispute this position. I have gone through the judgment of this court in special civil application No.165/80 decided on 26th June,1990. This court has held therein that, the authority has to decide the matter without being influenced by the Government Resolution dated 27th October, 1976. Both the authorities have decided the matter against the petitioner relying on the aforesaid Government Resolution. However, the counsel for the petitioner who was appearing in special civil application No.165/80 did not bring to the notice of this court the fact that compensation case had already been decided and the appeal has also been dismissed against which special civil application filed before this court is pending. Though this is a serious matter, but the decision of this court has been given on merits and as such those orders challenged in this special civil application cannot be allowed to stand. However, it is expected from the members of the Bar to place all facts before the court and there should not be any hide and seek.

3. In the result this special civil application succeeds and the same is allowed. The order at annexure F, dated 29th September, 1996, passed by the Deputy Collector, Nadiad, and the order at annexure G dated 28th July, 1980 passed by the Additional Chief Secretary (Appeals), Revenue Department, Ahmedabad, are quashed and set aside, and the matter is remanded back to the Deputy Collector for deciding the matter afresh on merits. Rule made absolute in the aforesaid terms. No order as to costs.

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